

Message Text

SECRET

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ACTION NODS-00

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S E C R E T SECTION 1 OF 3 SEOUL 10749

EXDIS - DISTRIBUTE AS NODIS

E.O. 11652: GDS
TAGS: PGOV, KS, US
SUBJECT: TONGSUN PARK AFFAIR: MUTUAL PROSECUTION ASSISTANCE
AGREEMENT AND TONGSUN PARK LETTER

REF: A. STATE 303478; B. STATE 299475

SUMMARY: AMBASSADOR AND FONMIN HOLD DIFFICULT AND CONTENTIOUS ONE AND ONE-HALF HOUR MEETING. DIFFICULT POINTS ON MPAA STILL REMAIN, BUT SOLUTION APPEARS POSSIBLE. FORMAT OF TONGSUN PARK LETTER CAUSING DIFFICULTY. FRIDAY TIMETABLE FOR SIGNING JOINT STATEMENT MAY SLIP. END SUMMARY.

1. I HELD VERY DIFFICULT HOUR AND ONE-HALF MEETING WITH FONMIN LATE AFTERNOON DECEMBER 21. GIVEN HEAT AND INTENSITY OF THIS DISCUSSION, IT IS APPARENT FONMIN IS HAVING DIFFICULTY NOT ONLY WITH WORDING OF MPAA AND PARK LETTER, BUT THAT THESE DIFFICULTIES ARE INCREASED BY OUR INSISTENCE ON FULL PACKAGE. AS WE DISCUSSED VARIOUS STICKING POINTS, HE MADE CONTINUAL REFERENCE TO FACT THAT ONCE JOINT STATEMENT ANNOUNCED, THERE WAS NO WAY THAT ROKG COULD ALLOW ARRANGEMENTS TO FAIL. IN THIS I SENSED THAT HIS HAND VIS-A-VIS OTHER MINISTRIES, GONGSUN PARK, AND EVEN THE BLUE HOUSE IS WEAKENED BECAUSE HE IS UNABLE TO REFER TO A SIGNED AND ANNOUNCED AGREEMENT, EVEN THOUGH WE ARE NOW AGREED ON WORDING.

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2. FONMIN BEGAN BY REQUESTING THAT TITLE OF MPAA BE MADE MORE FORMAL AND READ AS FOLLOWS QUOTE MUTUAL PROSECUTION ASSISTANCE AGREEMENT BETWEEN THE REPUBLIC OF KOREA, MINISTRY OF JUSTICE AND THE UNITED STATES DEPARTMENT OF JUSTICE CONCERNING TERMS AND CONDITIONS FOR COMMUNICATING WITH MR. TONGSUN PARK END QUOTE.

I SAID THIS APPEARED ACCEPTABLE AND WOULD IN MY VIEW
OBVIATE THE NEED FOR THE PREAMBLE. FONMIN THEN MOVED
TO PARAGRAPH 4, DISCUSSING THE POGNT COVERED EARLIER
IN THE DAY BY PAK/CLARK (DISCUSSED BELOW). I AGREED TO
SUPPORT THE INCLUSION OF WORDING FROM THE JOINT STATEMENT IN
THIS PARAGRAPH.

3. FONMIN THEN SAID HE HAD HAD LONG
DISCUSSION WITH THE JUSTICE MINISTER ON PARAGRAPHS
5, 6 AND 8 OF THE MPAA. RE PARAGRAPH 5, I STRESSED OUR INSISTENCE
THAT PARK ANSWER IN ENGLISH AND THAT THESE ANSWERS
BE PROVIDED WITHOUT DELAY. HE ASSURED ME THAT THIS
WAS FULLY UNDERSTOOD AND ACCEPTED BY THE ROK. HOWEVER,
HE HAD DIFFICULT PROBLEMS IN FORCING TOTAL U.S. LANGUAGE
ON THE JUSTICE MINISTRY AND WE WORKED HARD TO ARRIVE
AT A FORMULATION WHICH WOULD GIVE US OUR ASSURANCE
AND APPEAR TO MAKE SOME MODIFICATION. AS A RESULT, I
AGREED TO REQUEST THE FOLLOWING LANGUAGE FOR PARAGRAPH 5
BE ACCEPTED BY WASHINGTON. QUOTE DURING THE SUBSEQUENT
INTERROGATION OF MR. TONGSUN PARK IN SEOUL, KOREA, THE
UNITED STATES DEPARTMENT OF JUSTICE PROSECUTOR WILL PUT
QUESTIONS TO MR. PARK IN ENGLISH AND MR. PARK WILL BE
EXPECTED TO ANSWER IN ENGLISH. MR. PARK'S ANSWERS TO
A PARTICULAR QUESTION WILL BE STATED WITHOUT DELAY AND
SIMULTANEOUS TRANSLATION INTO KOREAN OR ENGLISH WILL BE
EMPLOYED AS NEEDED. VERBATIM RECORD IN ENGLISH WILL BE
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PROVIDED TO THE KOREAN PROSECUTION. END QUOTE. I BELIEVE
THIS LANGUAGE PROTECTS OUR INTEREST IN HAVING UNINTERRUPTED
INTERROGATION. WITH RESPECT TO PARAGRAPH 7, THE FONMIN SAID
THAT THEY WERE FULLY PREPARED TO GIVE US ORAL ASSURANCES THAT
QUESTIONS COULD BE PUT TO MR. PARK WITHOUT INTERRUPTION BUT THAT
INCLUSION OF THIS LANGUAGE IN AGREEMENT APPEARED
PERJURATIVE TO MOJ. AFTER DISCUSSING THE MATTER, I AGREED
TO RECOMMEND STRONGLY TO WASHINGTON THAT QUOTE WITHOUT
INTERRUPTION END QUOTE IN PARAGRAPH 6 BE REPLACED BY
QUOTE CONTINUOUSLY END QUOTE. THE FONMIN ASSURED ME
THAT THIS WOULD BE INTERPRETED AS WITHOUT CNERRUPTION
AND FULL ASSURANCES TO THAT EFFECT WOULD BE PROVIDED
TO DOJ BY MOJ AT THEIR PROPOSED MEETING.

4. RE PARAGRAPH 8, THE FONMIN TRIED LONG AND HARD, REPORTEDLY
AT THE BEHEST OF THE MINISTER OF JUSTICE, AND I BELIEVE OTHERS
AS WELL, TO HAVE THE LANGUAGE IN THIS PARAGRAPH MODIFIED
AS EARLIER REQUESTED. I WAS ADAMANT IN MY REFUSAL TO
CONSIDER ANY CHANGE IN THIS WORDING. THE DISCUSSION
WAS LONG AND HOT AND ONLY AFTER WE HAD AGREED TO MODI-
FICATIONS OF PARAGRAPHS 5 AND 6 AS PART OF A TOTAL
ARRANGEMENT DID THE FONMIN RELEUCTANTLY AGREE TO MKAE

HIS VERY BEST EFFORT TO CONVINCE THE MINISTRY OF JUSTICE TO ACCEPT THIS WORDING. I POINTED OUT THAT FAILING AGREEMENT ON THIS PARAGRAPH, WE COULD VERY WELL FAIL IN ANY AGREEMENT AT ALL.

5. THE FONMIN THEN BROUGHT UP PARAGRAPHS 14 AND 15 AND AGAIN EXPLAINED WHY THEY WERE NEEDED AS HAD BEEN DISCUSSED BY PAK/CLARK EARLIER. I AGREED TO SUPPORT RETENTION. REGARDING PARAGRAPH 11, THE FONMIN ALSO ASKED FOR MY SUPPORT TO THE EARLIER DISCUSSION BETWEEN PAK/CLARK, AND I AGREED.

6. I THEN RAISED THE REQUIRED LETTER FROM TONGSUN PARK AND THE REQUIRED ELEMENTS THEREOF. THE FONMIN SAID THAT
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INITIALLY WE HAD SOUGHT AGREEMENT TO A JOINT STATEMENT, THEN A LETTER FROM PARK, THEN AN MPAA. LATER WE HAD MODIFIED THIS TO HAVING ALL THREE ELEMENTS AT THE SAME TIME. FURTHER, WE HAD INITIALLY REQUESTED A LETTER FROM PARK STATING HIS WILLINGNESS TO GO TO THE UNITED STATES

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FOR TRIAL, LATER WE HAD MODIFIED THIS TO INSURE THRUTHFUL TESTIMONY AND POLYGRAPH EXAMINATION IN ADDITION. WITH REGARD TO PARK'S IMMUNITY AND DISMISSAL OF THE INDICTMENT, WE HAD INITIALLY BASED THIS UPON COMPLETION OF HIS TESTIMONY AT THE FINAL TRIAL, LATER WE HAD MODIFIED THIS TO

TESTIMONY AND COOPERATION. EVERY TIME THE ROKG GOT TO ONE STAGE, IT SEEMED THAT THE UNITED STATES INCREASED THE CONDITIONS. I SAID THAT WE HAD MADE VERY CLEAR WHAT WE REQUIRED IN A LETTER FROM TONGSUN PARK. WE HAD NOT INCREASED THE CONDITIONS, BUT HAD SOUGHT EARNESTLY TO AVOID EMBARRASSMENT TO BOTH OUR GOVERNMENT THROUGH EITHER LACK OF AGREEMENT ON THE MPAA OR THROUGH LACK OF COOPERATION BY TONGSUN PARK. I POINTED OUT THAT THE BASIC PROBLEM WAS IN FACT OUR LACK OF TRUST IN MR. PARK AND HIS TRUTHFULNESS. THE FONMIN SAID THAT THE ROKG COULD NOT AFFORD TO ALLOW TONGSUN PARK TO BLOCK FULFILLMENT OF AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS ONCE SUCH HAD BEEN PUBLICLY ANNOUNCED. THEN FOR THE FIRST TIME, WHICH IN GREAT PART EXPLAINED SOME OF OUR RECENT DIFFICULTIES, HE ADMITTED THERE WAS A DRAFT LETTER FROM TONGSUN PARK. HE DID NOT HAVE A COPY BUT BRIEFED ME ON ITS CONTENT. HE STATED IT WOULD SAY THAT PARK HAD BEEN FULLY BRIEFED ON THE NEGOTIATIONS BETWEEN THE TWO GOVERNMENTS, AND THAT HE INTENDED TO COOPERATE IN LIGHT OF THOSE AGREEMENTS. HE AGREED TO INTERROGATION IN SEOUL

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AND TRAVEL TO THE UNITED STATES AS A WITNESS. THE FONMIN SAID IN ADDITION THE LETTER SOUGHT ASSURANCES ON MANY OF THE POINTS AGREED BETWEEN US, BUT THAT IT ALSO INCLUDED REFERENCE TO PRIOR DISMISSAL OF THE INDICTMENT AND TO REMOVAL OF LIENS AGAINST PROPERTY IN THE UNITED STATES. I SAID THAT I, OF COURSE, COULD NOT COMMENT ON THE ACCEPTABILITY OF SUCH A LETTER WITHOUT HAVING SEEN THE TEXT. I WAS CONCERNED HOWEVER ABOUT ASSURANCES SOUGHT WHICH THE FONMIN REALIZED WE COULD NOT MEET. SPECIFICALLY, I STATED STRONGLY THAT PRIOR REMOVAL OF THE INDICTMENT AND ACTION ON PARK'S TAX QUESTIONS WERE NOT POSSIBLE AND THAT HIS LAWYERS WERE AWARE OF THIS. FONMIN ASSURED ME THAT THESE WERE ONLY ASSURANCES SOUGHT AND WERE NOT BINDING ON THE FULFILLMENT OF PARK UNDERTAKING TO COOPERATE IN BOTH INTERROGATION AND APPEARANCE AT TRIAL. I AGAIN STATED MY RELUCTANCE TO MAKE ANY JUDGMENT WITHOUT HAVING SEEN A FULL TEXT OF THE PROPOSED LETTER. FONMIN WAS VERY RELUCTANT TO PROVIDE THIS BUT AFTER FURTHER DISCUSSION AGREED TO HAVE A TRANSLATION IN MY HAND BY TOMORROW MORNING. BEFORE GIVING MY CONCLUSIONS, I WOULD LIKE TO COMPLETE ALL OF THE DISCUSSIONS ON THE MPAA BY REFERRING IN THE FOLLOWING PARAGRAPHS TO THE PAK/CLARK TALKS.

7. AT DISCUSSIONS EARLIER IN DAY, IN ADDITION TO POINTS SUBSEQUENTLY COVERED BY FONMIN AND MYSELF, PAK SANG YONG AND POLCOUNS CLARK DISCUSSED THE FOLLOWING MINOR POINTS STILL AT ISSUE. THEY ARE NOT, IN MY VIEW, SUBSTANTIVE

AND SHOULD NOT IMPEDE OUR SIGNING OF JOINT STATEMENT.

PARA. 1: PAK FULLY UNDERSTANDS AND VIEWS LANGUAGE AS MAKING CLEAR THAT JOINT STATEMENT IS AN INTEGRAL PART OF MPAA. HE USED THIS LATER TO ARGUE FOR CHNAGE
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TO PARA. 4.

PARA. 4: PAK AGREED THAT WORDING ON IMMUNITY WAS REDUNDANT, BUT SAID THAT IN SOME INSTANCES REDUNDANCY WAS THE BEST COURSE. HE THEREFORE REQUESTED THAT LANGUAGE USED IN JOINT STATEMENT PARA.4. B. BE INCLUDED IN THIS PORTION OF MPAA. REQUEST IS THAT QUOTE TO PROVIDE HIM WITH FULL IMMUNITY FROM ANY PAST CRIMINAL CONDUCT AND....END QUOTE BE INSERTED BETWEEN QUOTE JUSTICE'S OFFER END QUOTE AND QUOTE TO SEE DISMISSAL END QUOTE. SINCE WE HAVE SAID THIS ONCE, EMBASSY SEES NO REASON NOT SAY IT AGAIN. EMBASSY ALSO NOTES THAT QUOTE ANY END QUOTE APPEARS IN OUR TEXT AS VERIFIED REF B. PAK ALSO AGAIN REQUESTED DELETION OF QUOTE AND COOPERATION END QUOTE AT END OF SENTENCE. HE SAID THIS WAS AN EXPANSION OF WORDING IN JOINT STATEMENT AND COULD CAUSE MISUNDERSTANDING OF TERMS PROVIDED TO TONGSUN PARK. AFTER ARGUMENTS BY POLCOUNS HE APPEARED READY TO ACCEPT REFUSAL TO DELETE BUT ASKED FOR ONE MORE TRY WITH WASHINGTON. FONMIN DID NOT PRESS THIS POINT HARD.

PARA. 9 AND PARA. 10: PAK AGAIN REQUESTED DELETION OF QUOTE OR PERSONS END QUOTE IN BOTH PARAGRAPHS. HE NOTED THAT WORDING IN NEW PARAGRAPH ONE COVERED THIS BY INCLUDING PERSON IN UNITED STATES OFFICIALS THROUGH USE OF THE HEREINAFTER REFERRED TO LANGUAGE. POLCOUNS SAID IT SOUNDED LIKE A LAWYER'S ARGUMENT BUT AGREED TO AGAIN REQUEST DELETION.

PARA. 11: PAK POINTED OUT THAT ALL OF THE ARRANGEMENTS UNDER EXISTING AGREEMENTS CALLED FOR EXAMINATION OF TONGSUN PARK IN SEOUL IN THE PRESENCE OF KOREAN OFFICIALS. THE KOREAN SIDE DID NOT SEE HOW THE AGREEMENTS COULD BE USED IN ANY OTHER WAY WITH RESPECT TO EXAMINATION AND THUS WISHED TO MAKE CLEAR THAT FURTHER EXAMINATION WOULD ALSO BE IN SEOUL. HE WAS NOT
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RESPONSIVE TO POLCOUNS ARGUMENTS AND REQUESTED FOLLOWING

WORDING BE ADDED TO END OF SENTENCE QUOTE FOR FURTHER
EXAMINATION IN SEOUL END QUOTE. IN ANY EVENT, KOREANS CONTROL
TRAVEL.

PARA. 14: POLCOUNS MADE ARGUMENTS PROVIDED REF A.
PAK RESPONDED THAT PARAGRAPH REFERRED TO MPAA, TRANSCRIPT
OF INTERROGATION AND ANY COMMUNICATION REGARDING EITHER
OF THESE. HE NOTED THAT PARAGRAPH 10 PROVIDED FOR USE
OF TRANSCRIPTS IN COURT, PARAGRAPH 12 PROVIDED FOR PROVISION
OF TRANSCRIPTS TO GRAND JURY AND PARA 13 ALLOWED FOR

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PROVISION OF TRANSCRIPTS OR PORTIONS OF THEM TO CONGRESS.
BY ADDITION OF PARAGRAPH 14, ROKG WAS ONLY MAKING
EXPLICIT WHAT WAS IMPLICIT IN THE MPAA. HE WAS AWARE THAT
BRIEFING ON THE MPAAA WOULD BE REQUIRED BY BOTH SIDES. IN
EMBASSY VIEW, ROK IS SIMPLY ATTEMPTING TO GAIN ASSURANCE THAT
TONGSUN PARK TRANSCRIPTS DO NOT ENJOY WIDE DISTRIBUTION.
IT IS NOT ATTEMPTING TO BLOCK PROVISION OF TRANSCRIPTS
TO ANY COMMITTEE OF CONGRESS, AND IS NOT CONCERNED
OVER SEC INVESTIGATION. UNLESS WE INTEND TO MAKE USE
OF TRANSCRIPTS IN MANNER NOT ALREADY MADE CLEAR TO ROK,
EMBASSY FAILS TO UNDERSTAND WHY THIS PARAGRAPH CANNOT
BE ACCEPTED.

PARA. 15: PAK AGAIN URGED ACCEPTANCE OF THIS
PARAGRAPH. HE STRESSED THAT ROKG ONLY WISHED TO KNOW
WHEN TRANSCRIPTS WERE PROVIDED TO GRAND JURY OR TO
CONGRESSIONAL COMMITTEES IN ORDER TO PREPARE FOR POSSIBLE
LEAKS. HE POINTED OUT THAT PARAGRAPH AS MODIFIED BY
POWCOUNS AND AGREED TO BY MOJ NOW DID NOT PROVIDE ANY
ROK CONTROL ON TIMING OF U.S. ACTIONS, BUT ONLY PROVIDED

ROK WITH ADVANCE NOTICE. EMBASSY BELIEVES THAT ROK HAS
LEGITIMATE CONCERN IN THIS MATTER AND SUPPORTS ROK REQUEST
FOR INCLUSION THIS PARAGRAPH.

8. ON JOINT STATEMENT WORDING OF PARAGRAPH 5. B.,
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PAK SAID MAIN CONCERN OF UNITED STATES WAS THAT PARK
TONGSUN TRAVEL TO AND FROM FOR TESTIMONY. ROK NEEDED
TO SHOW THAT HE WOULD RETURN TO KOREA AND THAT WAS
BASIS FOR PROTRACTED NEGOTIATIONS ON PARAGRAPH 4. F.
THE EMPHASIS ON QUOTE PRESENCE IN THE UNITED STATES
END QUOTE IN PRESENT WORDING OF PARAGRAPH 5. B.
BROUGHT THIS QUESTION INTO BUREAUCRATIC FOCUS HERE
IN SEOUL. HE ACCEPTED US REFUSAL AS PROVIDED REF. A,
BUT ASKED IF FOLLOWING WORDING FOR FINAL PHRASE WOULD
NOT BE ACCEPTABLE QUOTE AND WILL TAKE ALL NECESSARY
STEPS TO FACILITATE HIS TRAVEL FOR THIS PURPOSE END
QUOTE. AFTER CHECKING WITH ME, POLCOUNS ACCEPTED THE
NEW WORDING AD REFERENDUM.

9. COMMENT: IT WAS QUITE OBVIOUS TO ME THAT FONMIN
IS UNDER SERIOUS PRESSURE, NOT ONLY BY THE JUSTICE
MINISTRY AND TONGSUN PARK, BUT BY OTHERS AS WELL.
NORMALLY GIVEN TO A NON-CONTENTIOUS STYLE, HE WAS
TODAY FIRM AND DIRECT IN ARGUMENTATION. THIS CONTRIBUTED
IN GOOD MEASURE TO THE HEAT AND LENGTH OF OUR DISCUSSION.
WHILE HE IS WILLING TO FIGHT, AND FIGHT HARD, ON SOME POINTS,
HE IS UNWILLING TO APPEAR ALWAYS TO BE
ACCOMMODATING TO U.S. DEMANDS. I WOULD THEREFORE URGE STRONGLY
THAT WE ATTEMPT WITH THE MPAA TO ACCOMMODATE HIS REQUEST
WITH RESPECT TO CHANGES IN ORDER THAT HE CAN PREVAIL
WITH RESPECT TO PARAGRAPH 8.

DEPENDING UPON THE TEXT OF PARK'S LETTER,
WHICH I WILL TRANSMIT AS SOON AS RECEIVED, I URGE
THAT WE RECOGNIZE ROKG ALSO
HAS PROBLEMS AND THAT WE ACCEPT AT FULL VALUE
ROKG ASSURANCES IT WILL NOT ALLOW OUR AGREEMENT
TO FAIL THROUGH THE MACHIZATIONS OF TONGSUN
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PARK IN EVALUATING PARK'S LETTER.
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Message Attributes

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